

**PA's 18-Month Bay Strategy – DEP' Response to EPA's Proposed Enhancements  
November 19, 2015**

**AGRICULTURE:**

**PRD1: Ag Compliance and Enforcement Strategy.**

- **Clarify Focus of Compliance Effort:** Further explain why the initial focus of the compliance effort is on developing plans versus implementing them.

Response: As we discussed and to clarify, we plan to include the following language in the detailed implementation plan:

The initial focus of the Agricultural Compliance and Enforcement Strategy is to ensure that farmers have the required Manure Management Plan and Ag Erosion and Sediment Control Plan. Where plans are not in place, DEP will employ the compliance strategy (attached)<sup>1</sup> to require that farmers have them developed. Where plans are in place, using the same compliance strategy DEP will focus to ensuring that all plans, and the associated agricultural conservation practices, are fully implemented.

- **Fill Additional Staffing Needs:** Add language to explain how PA will fund the additional new staff needed to support farm inspections (5 new inspectors, 5 new support staff in DEP RO and DEP CO).

Response: As we discussed, the following will be submitted as part of DEP's budget request for 2016-2017:

*Pennsylvania has fallen behind in meeting its compliance obligations for the Chesapeake Bay watershed. The state is expected to have achieved 60 percent of required reductions by 2017 with full compliance by 2025. The Chesapeake Bay reboot will focus on technical assistance and compliance efforts to ensure that municipal sewage systems and agricultural interests are working to reduce nitrogen and phosphorous discharges into the watershed. In year one, DEP will fill 24 positions, focused primarily on compliance and enforcement activities within the Bay watershed. Estimated 2016-17 Funding: \$1.375M (10 positions for the Agriculture Compliance and Enforcement piece of this strategy, funded for 13.0 pay periods)*

- **Fund Plan Development:** Add language detailing the steps PA will take to quantify the un-met need for plan development and steps PA will take to garner the resources necessary to meet that demand.

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<sup>1</sup> This is essentially the NCRO approach. It will be part of the implementation plan to make it very clear. It's being edited and update currently.

Response: As we discussed, having Manure Management and Ag Erosion and Sediment Control Plans is a regulatory requirement in PA that has been in effect for over 30 years, and under which farmers have the obligation to comply. The new strategy is based on implementing this requirement, regardless of available funding. There will be no more waiting lists for compliance due to waiting lists for funding.

- Proposed Language to be included in the detailed implementation plan:

Assist PDA and CDs with a cooperative project to build technical capacity for developing Manure Management Plans and Ag Erosion and Sediment Control Plans in the private sector.

Assist PDA and CDs with a cooperative project to obtain available supplemental EPA funding to increase the technical assistance capacity for developing Manure Management Plans and Ag Erosion and Sediment Control Plans.

Review with PA NRCS options for better targeting existing funding and building capacity to help meet producers' demand for technical assistance in developing and implementing the Manure Management Plans and Ag Erosion & Sediment Control Plans.

#### **LWQ6: Implement Targeted Efforts in Impaired Watersheds (agriculture focus)**

- **Better target existing funding.**

- Proposed Language to be included in the detailed implementation plan:

Implement the targeted watershed effort in the Chiques Creek watershed in Lancaster County. This watershed is impaired, and its geography and land use are amenable to successful BMP implementation to provide quick results toward attainment status. This watershed also is in an area where there is an interested local group ready to take the lead on implementation of the initiative. Federal and state cost-share dollars will be focused in the watershed for implementation. Work in the Chiques Creek watershed could be a model for future, like efforts in other watersheds.

DEP will develop a list of priority agricultural best BMPs with the greatest nutrient reduction potential for the Chesapeake Bay to which to target its annual ag cost share program. PA will target annual ag cost share funding to these low cost, effective agricultural conservation practices that result in significant nutrient reductions.

PA will evaluate the results of this targeted watershed project to determine its effectiveness and efficiency (\$/lb.) in reducing nutrient loadings to the Chesapeake Bay, and use this information and any lessons learned to inform decisions regarding future targeted watershed efforts that may significantly increase implementation of the priority agricultural conservation practices in the select priority agricultural watersheds.

- **Increase PA funding for Ag Cost Share.** We are continuing to work to identify any other short term funding opportunities. However, as we discussed, any major funding effort will be part of the successful development of a Growing Greener III initiative. We are committed to advocating for such an initiative and for a significant carve-out of funds dedicated for Chesapeake Bay restoration activities. Any such initiative is not something that will be able to be accomplished in the eighteen-month period addressed in the paper detailing the new strategy.
- **Regularly Assess the Need for Ag Cost Share Support.**

Response: As we discussed, the realities of the budget development and approval process in PA prevent DEP from agreeing to this recommendation in its entirety. We propose the following, to be included in the detailed implementation plan, instead:

DEP and PDA will work together to establish a process for conducting a joint, annual assessment of the fiscal support need of additional agricultural conservation practices to be on track with the Bay and local waters cleanup goals. This assessment will be provided each year for consideration by the Governor's Budget office in the next budget cycle for the Commonwealth.

- **Seek additional sources of funding:** We agree with the following suggestions, and as noted in our conversation, are already in place:
  - PA will submit a request for approximately \$4 million from the NRCS Regional Conservation Partnership Program (with equivalent partner match) to implement stream exclusion measures and buffers in two priority agricultural counties: York and Lancaster.
  - PA agencies will coordinate with state and local partners to submit projects for funding through various grant programs, such as the NFWF Chesapeake Bay Stewardship Fund, to accelerate implementation of high priority agricultural practices in high priority agricultural watersheds.
  - PADEP will complete updates to its Nutrient Trading Program within the 18-month period of this Strategy and as discussed with EPA and stakeholder groups. This includes the completion of the nutrient trading calculation tool and necessary updates to baseline and other requirements in line with Technical Memo's issued by the EPA for the Bay Program. Trading is a viable option to yield lower cost solutions for load reductions especially employing the opportunities present with ag sector Best Management Practices.

**PRD2: Implement a methodology to count, report and verify BMPs & RKD8, RKD9: Design and build a BMP Data Management System. Establish reporting requirements for Ag E&S and MMPs and provide CDs the tool (Worldview) to capture these data.**

We fully understand the concerns raised in this section, and as we discussed, will consider them fully as we review data received from our effort. Our goal is to verify at least 10% of the reported practices using the verification protocol approved by EPA.

## URBAN STORMWATER

### PDR3: Continue Outreach and Program Development for MS4s

- **Item 6:** For clarification, this cost-share would be for the development of pollutant minimization and other plans, and not the construction of BMPs. We will likely be able to edit the strategy paper to make this clarification.
- **New Commitment Needed – To Use Innovative Alternatives to Build Stormwater Capacity** – PA is committed to a partnership with EPA on many of these in demonstration projects in watersheds with rural areas and MS4s. It must be noted, though, that the strategy paper lays out a path for the next eighteen months. Longer term projects will be considered in the development of the Phase 3 WIP. Specifically, we will add language to our detailed implementation plan and our response on the September 4, 2015 letter from EPA regarding our CBIG and CBRAP grants as follows:
  - PA DEP will partner with EPA and other partners to demonstrate innovative approaches to build capacity for MS4 permittee compliance and beyond compliance efforts to meet urban sector pollution reduction goals. EPA and PA DEP will partner in demonstrating new approaches which may include:
    - self-audit provisions for MS4s
    - Use of Community based partnerships to accelerate implementation of practices on the ground at lower cost (Cheaper, Faster, Greener); other alternative financing approaches will be explored as well
    - Support watershed approaches to implementation of stormwater controls to find the least cost solutions for improving local water quality and the Bay
    - Advance green infrastructure into MS4 permits and TMDL implementation plans for Bay and local water quality.
    - EPA and PA DEP are already working closely on pilots in York and Lancaster Counties in this regard and other budding pilots are being considered.

## QUANTIFY PROJECTED LOAD REDUCTIONS

DEP will attempt to quantify how the 13 Bay Strategy actions translate into load reductions for Bay reporting and credit. Note that we see this strategy as a significant change from what we have practiced in the past, and that any changes to this new approach based on estimated load reductions would be something we would consider in the development of the Phase 3 WIP.

- Output to be added to our response on the September 4, 2015 letter from EPA regarding our CBIG and CBRAP grants: DEP will use tools such as the Chesapeake Assessment Scenario Tool (CAST) to estimate the expected pollutant load reductions from implementing the 13 immediate recommendation contained in the Strategy to Enhance Pennsylvania's Chesapeake Bay Restoration Effort paper. As necessary, PADEP will report these estimates and adjustments in quarterly updates during this 18-month strategy implementation.

## **LINK STRATEGY TO MILESTONES AND EPA GRANT WORKPLANS:**

Specific actions from these 13 recommendations in the Bay Strategy will be incorporated into PADEP's 2016/2017 milestones and the EPA Chesapeake Bay annual grant work plans. This will be reflected in our response to the September 4, 2015 letter from EPA regarding our CBIG and CBRAP grants.

## **ESTABLISHING A NEW CHESAPEAKE BAY OFFICE WITHIN DEP**

We discussed the organizational relationship of the new Chesapeake Bay Office. It will report to the Deputy Secretary for Water Programs.

## **RESOURCE NEEDS**

- We will provide one summary table that provides a snapshot of existing resources, redirected existing resources, and additional resources needed for all 13 of the proposed recommendations. We will include that table in our response to the September 4, 2015 letter from EPA regarding our CBIG and CBRAP grants.
- We will commit PA to reporting periodically (perhaps not quarterly) on the status of securing the additional resources to fully meet the Strategy recommendations.
- In the PSU Study, scenario two suggests costs of about \$101.6 million annually, which is a savings of about 73% from the high estimate of \$378.3 million annually. It is important to note that scenario two assumes a 25% land retirement rate. We do not believe that is a realistic assumption.